

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

AARON J. CLARK,

Defendant.

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CASE NO. 8:12CR243

**MEMORANDUM
AND ORDER**

This matter is before the Court on Filing No.126, submitted by the Defendant, Aaron J. Clark, which appears in the above-captioned docket and has been construed as a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255(f)(3) (“§ 2255 motion”). In the § 2255 motion, the Defendant asserts that his “sentence should be reduced drastically” in light of the Supreme Court’s decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015).

The Court notes that the Defendant previously filed a § 2255 Motion (Filing No. 113) on September 29, 2014, and that motion was dismissed on October 24, 2014 (Filing Nos. 117, 118).

When a second § 2255 motion is filed:

A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain—

(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.

28 U.S.C. § 2255.

Therefore, the Defendant must proceed accordingly with the Eighth Circuit Court of Appeals. Without the required certification from the Eighth Circuit, this Court cannot consider the merits of the Defendant's second § 2255 motion and the pending motion will be denied.

IT IS ORDERED:

1. That Filing No. 126, submitted by the Defendant, Aaron J. Clark, which has been construed as a successive motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255(f)(3) ("§ 2255 motion") is dismissed;

2. A separate Judgment will be issued denying the successive § 2255 motion;
and

3. The Clerk is directed to mail a copy of this Memorandum and Order to the Defendant at his last known address.

DATED this 2nd day of June, 2016.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge